

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1356 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
DEVENDERSINGH S/O. SARDAR JAGDISHSINGH

Versus

STATE OF GUJARAT

-----  
Appearance:

MR YATIN SONI for Petitioner

MR.Y.S.MEHTA,A.P.P. for Respondent No. 1

-----  
CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 09/10/96

ORAL JUDGEMENT

Rule.

2. The matter is heard on merits at length.  
Therefore, at this stage I proceed to decide the matter finally.

3. This petition is filed by Devindersingh, son of

Sardar Jagdishsingh who is a dealer of arms in Meeruth, Utter Pradesh. He has filed the present petition seeking the quashing of Shahpur Police Station Cr. No. II 308/96 registered on the strength of the First Information Report lodged by Shri Asnani, Police Inspector of Special Squade, A.T.S., Ahmedabad city.

4. On 28-7-1996, the first informant has received information from Police Suprintendent of his branch alongwith the letter of Director General of Police informing him that there is illegal dealing in arms by the present petitioner as well as M/s. B.D.Patel & Sons. On the strength of the said information, he went to the premises of M/S. B.D.Patel & Sons and there on checking his accounts, he found that about 5 fire arms were purchased by said M/S. B.D.Patel & Sons from the present petitioner between 26-5-1992 and 9-8-94. He found that all the arms covered by the said transactions were contravening the provisions of Section 8 of the Arms Act. He also found that Shri Jahangir Patel of M/S. B.D.Patel & Sons had further sold some of the fire arms to other persons. Therefore, he has lodged the F.I.R. in question by naming the present petitioner as well as Jahangir Patel as the accused for the alleged commission of alleged offences punishable under Section 8 read with Section 25 of the Arms Act.

5. The petitioner has come before this court to quash the said registration of offences against him on the ground that the police of Ahmedabad as well as Shahpur Police Station of Ahmedabad have no jurisdiction to investigate the offence against him and that taking of cognizance of offence is hit by the provisions of Section 468 of the Code of Criminal Procedure.

6. From the First Information Report as well as the documents produced by the petitioner alongwith the present petition it seems prima facie that as regards the offence committed in contravention of Section 8 of the Arms Act, as far the present petitioner is concerned, has taken place at Meeruth, Utter Pradesh. Admittedly, the petitioner is a licenced dealer in arms and M/S.B.D.Patel & Sons is also a licenced dealer in arms. Both of them are holding licence for purchase as well as sale of fire arms. It is the case of the first informant that the present petitioner has sold certain fire arms to M/S.B.D.Patel & Sons and those sale of the fire arms are contravening the Section 8 of the Arms Act. But the transaction between the present petitioner and M/S.B.D.Patel & Sons was taken place at Meeruth. Therefore, as regards the commission of the offence by

the present petitioner by contravening the provisions of Section 8 of the Arms Act has taken place at Meeruth. Therefore, the .F.I.R. as regards the petitioner that is pertaining to the alleged offences alleged to have been committed by the petitioner will have to be transferred to the Meeruth Police Station. Therefore, on the face of it, the police of Shahpur cannot investigate the offence alleged to have been committed by the present petitioner under Section 8 of the Arms Act and they will have to transfer the First Information Report lodged against him to Meeruth, Uttar Pradesh.

7. The learned advocate for the petitioner wants me to quash the First Information Report against the present petitioner, but the first information report against the present petitioner could not be quashed. The only hindrance that would be as regards investigating the First Information Report, the First Information Report is not illegal or invalid. The only question is regarding the jurisdiction of the police for investigating the same. It is settled law that if the police have registered a First Information Report of the cognizable offence and if the police have no jurisdiction, then they have only to transfer First Information Report to the police who have got jurisdiction to investigate the same, the First Information Report in such a case could not be quashed. I am therefore, unable to accept the prayer for quashing the First Information Report as the same cannot be said to be illegal, without any base or is an abuse of law.

8. The next contention of the petitioner is that the transaction which have taken place between the present petitioner and M/S. B.D.Patel & Sons have taken place in the year 1992 and in view of the provisions of Section 468 of Cr.P.C., the cognizance of the said offence could not be taken. But alongwith the provisions of Section 468 of Cr.P.C. the provisions of Section 469 of Cr.P.C. are to be read. Section 469 of Criminal Procedure Code provides as to when the limitation is to begin. As per the said provisions the limitation is to begin from the date the offence took place or from the date of knowledge of offence is received by the first informant. As per the First Information Report, in this case, the first informant has got the knowledge of commission of offence only after 15th July, 1996. Therefore, in the circumstances, it could not be said that taking cognizance of the offence in question is hit by Section 468 of the Code of Criminal Procedure.

9. Thus, I partly allowed the present petition by

holding that as regards the commission of the offences by the present petitioner by contravening the provisions of Section 8 of the Arms Act, the First Information Report registered by Shahpur Police Station should be transferred to the Meeruth Police Station, Uttar Pradesh and Shahpur Police Station should not investigate the said offence as regards to the First Information Report in question.

Rule is made absolute in above terms.

\* \* \*